(3)

Supreme Court, U.S.
FILED

NO. 001121 JAN - 8 2001

OFFICE

IN THE

SUPREME COURT OF THE UNITED STATES

KENNETH A KOZEL,

Petitioner,

v.

ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION OF THE SUPREME COURT OF ILLINOIS,

Respondent.

On Petition for Writ of Certiorari
To The Illinois Supreme Court

APPENDIX, VOLUME 3

KENNETH A. KOZEL
PETITIONER
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13 pp

PUBLISHER'S NOTE:

THE FOLLOWING PAGES WERE UNAVAILABLE FOR FILMING:

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M.R. 16530
STATE OF ILLINOIS
SUPREME COURT

In re: Kenneth Alan Kozel) Attorney-Registration and
Attorney - Respondent) Disciplinary Commission

ORDER

This cause coming to be heard on the motion of the respondent, due notice having been given to the Administrator of the Attorney Registration and Disciplinary Commission, and the court being fully advised in the premises;

IT IS ORDERED that the motion for leave to supplement the motion for reconsideration of the order of June 30, 2000, is denied.

Order entered by the court. August 8, 2000

M.R. 16530
STATE OF ILLINOIS
SUPREME COURT

In re: Kenneth Alan Kozel) Attorney-Registration and
Attorney - Respondent) Disciplinary Commission

ORDER

This cause coming to be heard on the motion of the respondent, objections having been filed by the Administrator of the Attorney Registration and Disciplinary Commission, and the court being fully advised in the premises;

IT IS ORDERED that the motion for reconsideration of the order of June 30, 2000, disbarring respondent Kenneth Kozel, is denied.

Order entered by the court. August 11, 2000

M.R. 16530
STATE OF ILLINOIS
SUPREME COURT

In re: Kenneth Alan Kozel
M.R. 16530
Attorney Registration and
Disciplinary Commission 96 CH 50

The petitions by the Administrator of the Attorney Registration and Disciplinary Commission and respondent Kenneth Alan Kozel for leave to file exceptions to the report and recommendation of the Review Board are allowed. Respondent is disbarred.

Order entered by the Court. June 30, 2000

USCS Supreme Ct R 10 (2000)

Rule 10. Considerations Governing Review on Certiorari

Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

USCS Const. Amend. 1 (2000)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

USCS Const. Amend. 14, @ 1 (2000)

Sec. 1. [Citizens of the United States.]

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 USCS @ 1971 (2000)

Voting rights

(a) Race, color, or previous condition not to affect right to vote; uniform standards for voting qualifications; errors or omissions from papers; literacy tests; agreements between Attorney General and State or local authorities; definitions.

(1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

(2) No person acting under color of law shall--

(A) in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

(B) deny the right of any individual to vote in any election because of an

error or omission on any record or paper relating to any application,
registration, or other act requisite to voting, if such error or omission is not
material in determining whether such individual is qualified under State law to vote in such election; or

(C) employ any literacy test as a qualification for voting in any election
unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to title III of the Civil Rights Act of 1960 <=2> (42 U. S. C. 1974-74e; 74 Stat. 88) [<=3> 42 USCS @@ 1974 et seq.]: Provided, however, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, andmaintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

USCS Fed Rules Civ Proc R 52 (2000)

Rule 52. Findings by the Court; Judgment on Partial Findings

(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. It will be sufficient if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or memorandum of decision filed by the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in subdivision (c) of this rule.

(b) Amendment. On a party's motion filed no later than 10 days after entry of judgment, the court may amend its findings--or make additional findings--and may amend the judgment accordingly. The motion may accompany a motion for a new

trial under Rule 59. When findings of fact are made in actions tried without a jury, the sufficiency of the evidence supporting the findings may be later questioned whether or not in the district court the party raising the question objected to the findings, moved to amend them, or moved for partial findings.

(c) Judgment on Partial Findings.If during a trial without a jury a party has been fully heard on an issue and the court finds against the party on that issue, the court may enter judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue, or the court may decline to render any judgment until the close of all the evidence. Such a judgment shall be supported by findings of fact and conclusions of law as required by subdivision (a) of this rule.

USCS Bankruptcy R 7052 (2000)
Rule 7052. Findings by the Court

Rule 52 F.R.Civ.P. applies in adversary proceedings.

Rule 753. Inquiry, Hearing and Review Boards

(a) Inquiry Board.

(1) There shall be an Inquiry Board. It shall consist of members of the bar of Illinois and nonlawyers appointed by the Commission to serve annual terms as commissioners of the court. Nonlawyer members shall be appointed to the Board in a ratio of two lawyers for each nonlawyer. The Commission may appoint as many members of the Board as it deems necessary to carry on the work of the Board.

(2) The Board shall inquire into and investigate matters referred to it by the Administrator. The Board may also initiate investigations on its own motion and may refer matters to the Administrator for investigation.

(3) After investigation and consideration, the Board shall dispose of matters before it by voting to dismiss the charge, to close an investigation or to file a complaint with the Hearing Board.

(4) The Board may act in panels. Each panel shall consist of two lawyers and one nonlawyer as designated by the Commission. The Commission shall designate one of the members of each panel as chairman. The majority of a panel shall constitute a quorum and the concurrence of a majority shall be necessary to a decision.

(b) Filing a Complaint. A complaint voted by the Inquiry Board shall be prepared by the Administrator and filed with the Hearing Board. The complaint shall reasonably inform the attorney of the acts of misconduct he is alleged to have committed.

(c) Hearing Board.

(1) There shall be a Hearing Board. It shall consist of members of the bar of Illinois and nonlawyers

appointed by the Commission to serve annual terms as commissioners of the court. Members shall be appointed to the Board in a ratio of two lawyers for each nonlawyer.

(2) The Hearing Board may act in panels of not less than three members each, as designated by the Commission. The Commission shall also designate one of the lawyer members of each panel as chairperson. The majority of a panel shall constitute a quorum and the concurrence of a majority shall be necessary to a decision. In the absence of the chairperson of a panel at a hearing, the lawyer members present shall serve as acting chairperson.

(3) The hearing panels shall conduct hearings on complaints filed with the Board and on petitions referred to the Board. The panel shall make findings of fact and conclusions of fact and law, together with a recommendation for discipline, dismissal of the complaint or petition, or nondisciplinary disposition. The Hearing Board may order that it will administer a reprimand to the respondent in lieu of recommending disciplinary action by the court. The scheduling of matters before the Board shall be in accordance with Commission rules. Proceedings before the Board, including discovery practice, shall be in accordance with the Code of Civil Procedure [735 ILCS 5/1-101 et seq.] and the rules of the supreme court as modified by rules promulgated by the Commission pursuant to Supreme Court Rule 751(a). Information regarding prior discipline of a respondent will not be divulged to a hearing panel until after there has been a finding of misconduct, unless that information would be admissible for

reasons other than to show a propensity to commit the misconduct in question.

(4) Except as otherwise expressly provided in these rules, the standard of proof in all hearings shall be clear and convincing evidence.

(d) Review of Hearing Board Reports.

(1) Review Board. There shall be a nine-member Review Board which shall be appointed by the court. Appointments shall be for a term of three years or until a successor is appointed. Appointments to the Review Board shall be staggered, so that the terms of three members are scheduled to expire each year. No member shall be appointed for more than three consecutive three-year terms. One member shall be designated by the court as chairperson. The Review Board shall function in panels of three, presided over by the most senior member ofthe panel. The concurrence of two members of a panel shall be necessary to a decision.

(2) Exceptions; Agreed Matters. Reports of the Hearing Board shall be docketed with the Review Board panel upon the filing of a notice of exceptions by either party. The respondent or the Administrator may file exceptions to the report of the Hearing Board with the Review Board within 21 days after service of the report to the parties. If neither the respondent nor the Administrator files a notice of exceptions to the Hearing Board report, and the report recommends action by the court, the clerk of the Attorney Registration and Disciplinary Commission shall submit the report of the Hearing Board to the court as an agreed matter. Upon the submission of any matter as an agreedmatter, the clerk of the Commission shall give notice to the

parties of that submission. Within 21 days after submission of the report to the court, the Administrator shall file a motion to approve and confirm the report of the Hearing Board. No response to this motion shall be filed unless ordered by the court on its own motion or pursuant to a motion for leave to respond. Upon receipt of the motion to approve and confirm, the court may enter a final order as recommended by the Hearing Board or as otherwise determined by the court, order briefs or oral argument or both, or remand the matter with directions to the Hearing Board or the Review Board.

(3) Action by the Review Board. The Review Board may approve the findings of the Hearing Board, may reject or modify such findings as it determines are against the manifest weight of the evidence, may make such additional findings as are established by clear and convincing evidence, may approve, reject or modify the recommendations, may remand the proceeding for further action or may dismiss the proceeding. The Review board may order that it will administer a reprimand to the respondent in lieu of recommending disciplinary action by the court. A copy of the report or order of the Review Board shall be served on the respondent and the Administrator.

(e) Review of Review Board Reports.

(1) Petition for Leave to File Exceptions. Reports or orders of the Review Board shall be reviewed by the court only upon leave granted by the court or upon the court's own motion. Either party may petition the court for leave to file exceptions to the order or report of the Review Board. The petition shall be filed within 35 days of service of the order or

report upon the party. The supreme court, or a justice thereof, on motion may extend the time for petitioning for leave to file exceptions, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances.

(2) Grounds for Petition for Leave to File Exceptions. Whether a petition for leave to file exceptions will be granted is a matter of sound judicial discretion. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered; the general importance of the question presented; the existence of a conflict between the report of the Review Board and prior decisions of the court; and the existence of a substantial disparity between the discipline recommended and discipline imposed in similar cases.

(3) Contents of Petition for Leave to File Exceptions. The petition for leave to file exceptions shall contain, in the following order:

(a) a request for leave to file exceptions;

(b) a statement of the date upon which the report of the Review Board was filed;

(c) a statement of the points relied upon for rejection of the report of the Review Board;

(d) a fair and accurate statement of the facts, which shall contain the facts necessary to an understanding of the case, without argument or comment, with appropriate references to the record by transcript page and exhibit number;

(e) a short argument (including appropriate authorities) stating why review by the Supreme Court is warranted and why the decision of the Review Board should be rejected; and

(f) a copy of the reports of the Hearing and Review Boards and proposed exceptions shall be appended to the petition. The petition shall be duplicated, served and filed in accordance with requirements for briefs.

(4) Answer. The opposing party need not but may file an answer, with proof of service, within 14 days after the expiration of the time for the filing of the petition, or within such further time as the supreme court or a judge thereof may grant within such 14-day period. An answer shall set forth reasons why the petition should not be granted, and shall conform, to the extent appropriate, to the form specified in this rule for the petition, omitting the first four items set forth in paragraph (3) except to the extent that correction of the petition is considered necessary. The answer shall be duplicated, served, and filed in accordance with the requirements for briefs. No reply to the answer shall be filed.

(5) Ruling on Petition.

(a) If the court allows exceptions to an order or report of the Review Board, it may:

(i) enter a final order as recommended by the Review Board or as otherwise determined by the court;

(ii) enter an order remanding the matter with directions to the Hearing Board or the Review Board; or

(iii) accept the matter for further consideration.

If the case is accepted for further consideration, the clerk of the Attorney Registration and Disciplinary Commission shall transmit the record of

the case to the court. Either party may assert error in any ruling, action, conclusion or recommendation of the Review Board without regard to whether the party filed exceptions. The petition for leave to file exceptions allowed by the court shall stand as the brief of the appellant. Remaining briefs shall be prepared, filed and served in compliance with Rules 343 and 344. The parties shall not be entitled to oral argument before the court as of right. Oral argument may be requested in accordance with Rule 352.

(b) If the court denies leave to file exceptions, it may:

(i) enter a final order as recommended by the Review Board or as otherwise determined by the court; or

(ii) enter an order remanding the matter with directions to the Hearing Board or the Review Board.

(6) Agreed Matters. If a petition for leave to file exceptions is not timely filed and if the report of the Review Board recommends action by the court, the clerk of the Attorney Registration and Disciplinary Commission shall submit the report of the Review Board together with a copy of the report of the Hearing Board to the court as an agreed matter. Upon the submission of any matter as an agreed matter, the clerk of the Commission shall give notice to the parties of that submission. Within 21 days after submission of the report to the court, the Administrator shall file a motion to approve and confirm the report of the Review Board. No response to this motion shall be filed unless ordered by the court on its own motion or pursuant to a motion for leave to respond. Upon receipt of the motion to

approve and confirm, the court may enter a final order of discipline as recommended or as otherwise determined by the court, order briefs or oral argument or both, or remand the matter with directions to the Hearing Board or the Review Board.

(7) Finality of Review Board Decision. If exceptions are not filed and the order or report of the Review Board does not recommend disciplinary action by the court, the order or report of the Review Board shall be final.

(f) Duty of Respondent or Petitioner. It shall be the duty of the respondent or petitioner who is the subject of any investigation or proceeding contemplated by these rules to appear at any hearing at which his presence is required or requested. Failure to comply, without good cause shown, may be considered as a separate ground for the imposition of discipline or denial of a petition.

Supreme Ct., R 315 (2000)

Rule 315. Leave to Appeal from the Appellate Court to the Supreme Court

(a) Petition for Leave to Appeal; Grounds. Except as provided below for appeals from the Industrial Commission division of the Appellate Court, a petition for leave to appeal to the Supreme Court from the Appellate Court may be filed by any party, including the State, in any case not appealable from the Appellate Court as a matter of right. Whether such a petition will be granted is a matter of sound judicial discretion. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered: The general importance of the question presented; the existence of a conflict between the decision sought to be reviewed and a decision of the Supreme Court, or of another division of the Appellate Court; the need for the exercise of the Supreme Court's supervisory authority; and the final or interlocutory character of the judgment sought to be reviewed. No petition for leave to appeal from a judgment of the five-judge panel of the Appellate Court designated to hear and decide cases involving review of Industrial Commission orders shall be filed, unless at least one judge of that panel files a statement that the case in question involves a substantial question which warrants consideration by the Supreme Court. A motion asking that such a statement be filed may be filed as a prayer for alternative relief in a petition for rehearing, but must, in any event, be filed within the time allowed for filing a petition for rehearing.

(b) Time; Contents. Unless a timely petition for rehearing is filed in the Appellate Court, a party seeking leave to appeal must file the petition for leave in the Supreme Court within 21 days after entry of the judgment of the Appellate Court, or within the same 21 days file with the Appellate Court an affidavit of intent to file a petition for leave, and file the petition within 35 days after the entry of such judgment. If a timely petition for rehearing is filed, the party seeking review must file the petition for leave to appeal within 21 days after the entry of the order denying the petition for rehearing, or within the same 21 days must file with the Appellate Court an affidavit of intent to file a petition, and file the petition within 35 days after entry of such order. If a petition is granted, the petition for leave to appeal must be filed within 21 days of the entry of the judgment on rehearing, or if within the same 21 days an affidavit of intent is filed with the Appellate Court, then within 35 days after the entry of such judgment. The Supreme Court, or a judge thereof, on motion, may extend the time for petitioning for leave to appeal, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances.

The petition for leave to appeal shall contain, in the following order: (1) a prayer for leave to appeal; (2) a statement of the date upon which the judgment was entered; whether an affidavit of intent to seek review was filed with the Appellate Court and, if so, the date it was filed; whether a petition for rehearing was filed and, if so, the date of the denial of the petition or the date of the judgment on

rehearing; (3) a statement of the points relied upon for reversal of the judgment of the Appellate Court; (4) a fair and accurate statement of the facts, which shall contain the facts necessary to an understanding of the case, without argument or comment, with appropriate references to the pages of the record on appeal, e.g., R.C7 or R.7, or to the pages of the abstract, if one has been filed, e.g., A.7. Exhibits may be cited by references to pages of the record on appeal, or of the abstract, or by exhibit number followed by the page number within the exhibit, e.g., Pl.Ex. 1, p. 6; (5) a short argument (including appropriate authorities) stating why review by the Supreme Court is warranted and why the decision of the Appellate Court should be reversed or modified; and (6) an appendix which shall include a copy of the opinion or order of the Appellate Court and any documents from the record which are deemed necessary to the consideration of the petition.

(c) Format; Service; Filing. The petition shall otherwise be prepared, duplicated, served, and filed in accordance with the requirements for briefs as set forth in Rules 341 through 344, except that it shall be limited to 20 pages excluding only the appendix.

(d) Records; Abstracts. If an abstract has been filed in the Appellate Court, the petitioner shall file two or, if available, eight copies thereof in the Supreme Court, and for that purpose the clerk of the Appellate Court, when requested, shall release to the petitioner any available copies thereof. The clerk of the Supreme Court shall send notice of the filing of the petition to the clerk of the Appellate Court, who, upon request of the clerk of the Supreme

Court made either before or after the petition is acted upon and at the expense of the petitioner, shall transmit to the clerk of the Supreme Court the record on appeal that was filed in the Appellate Court and a certified copy of the Appellate Court record. If leave to appeal is not granted, any certified papers and, to the extent available, copies of abstracts shall be returned forthwith to the clerk of the Appellate Court.

(e) Answer. The respondent need not but may file an answer, with proof of service, within 14 days after the expiration of the time for the filing of the petition, or within such further time as the Supreme Court or a judge thereof may grant within such 14-day period. An answer shall set forth reasons why the petition should not be granted, and shall conform, to the extent appropriate, to the form specified in this rule for the petition, omitting the items (1), (2), (3), (4) and (6) set forth in paragraph (b) except to the extent that correction of the petition is considered necessary. The answer shall be prepared, duplicated, served, and filed in accordance with the requirements for briefs except that it shall be limited to 20 pages excluding only the appendix. No reply to the answer shall be filed. If the respondent does not file an answer or otherwise appear but wants notice of the disposition of the petition for leave to appeal, a letter requesting such notice should be directed to the clerk in Springfield.

(f) Abstracts; Transmittal of Trial Court Record if Petition Is Granted. If the petition is granted, and to the extent that copies have not already been filed, the appellant shall file 20 copies of the abstract, as filed in the Appellate Court, within the time for the filing of

his brief. If no abstract was filed in the Appellate Court, but the Supreme Court so orders, an abstract shall be prepared and filed in accordance with Rule 342. Upon the request of any party made at any time before oral argument or upon direction of the Supreme Court, the clerk of the Appellate Court, at the expense of the petitioner, shall transmit to the Supreme Court the record on appeal that was filed in the Appellate Court and the Appellate Court record, if not already filed in the Supreme Court.

(g) Briefs. If leave to appeal is allowed, the appellant may allow his or her petition for leave to appeal to stand as the brief of appellant, or may file a brief in lieu of or supplemental thereto. Within 14 days after the date on which leave to appeal was allowed, appellant shall serve on all counsel of record a notice of election to allow the petition for leave to appeal to stand as the brief of appellant, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If appellant elects to allow the petition for leave to appeal to stand as his or her brief, appellant shall file with the notice a complete table of contents, with page references, of the record on appeal and a statement of the applicable standard of review for each issue, with citation to authority, in accordance with Rule 341(e)(3). If appellant elects to file an additional brief, it shall be filed within 35 days from the date on which leave to appeal was allowed. Motions to extend the time for filing an additional brief are not favored and will be allowed only in the most extreme and compelling circumstances.

The appellee may allow his or her answer to the petition for leave to appeal to stand as the brief of appellee, or may file a brief in lieu of or supplemental thereto. If the appellant has elected to allow the petition for leave to appeal to stand as the brief of appellant, within 14 days after the due date of appellant's notice the appellee shall serve on all counsel of record a notice of election to let the answer stand as the brief of appellee, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If the appellee elects to file an additional brief, such brief shall be filed within 35 days of the due date of appellant's notice of election to let the petition for leave to appeal stand as the brief of appellant.

If the appellant has elected to file an additional brief, within 14 days after the due date of appellant's brief the appellee shall serve on all counsel of record a notice of election to let his or her answer stand as the brief of appellee, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If appellee elects to file an additional brief it shall be filed within 35 days of the due date of appellant's brief.

If an appellee files a brief, the appellant may file a reply brief within 14 days of the due date of appellee's brief. If the brief of appellee contains arguments in support of cross-relief, the appellant's arguments in opposition shall be included in the reply brief and the appellee may file a reply brief confined strictly to those arguments within 14 days of the due date of appellant's reply brief. If the brief of the appellee contains arguments in support of cross-

relief, the cover of the brief shall be captioned: "Brief of Appellee. Cross-Relief Requested."

Briefs, pleadings and other documents filed with the Supreme Court in cases covered by this rule shall, to the extent appropriate, conform to Rules 341 through 344.

In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

(h) Oral Argument. Oral argument may be requested as provided in Rule 352(a).

Supreme Court Rule of Professional Conduct 8.2.

(a) A lawyer shall not make a statement the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicative officer, public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) A lawyer who is a candidate for judicial office shall refrain from conduct which, if the lawyer were a judge, would be a breach of the Code of Judicial Conduct.

Attorney Registration and Disciplinary Commission
Rule 281
Report of the Hearing Board

The report of the Hearing Board shall be prepared by the panel as soon as practicable after completion of the hearing. The report shall be filed with the Clerk. The Clerk shall serve a copy upon the respondent and the administrator.

Attorney Registration and Disciplinary Commission
Rule 311
Review Board Report

The report of the Review Board shall address the issues raised by the parties and need not address any portion of the Hearing Board report with which the parties have not taken issue. The Review Board report may consist of the adoption of the Hearing Board Report. Unanimous reports shall be submitted in the name of the Review Board Panel. When there is a divided vote, the members constituting the majority and the members dissenting or concurring in part shall be named. Any member dissenting or concurring in part may submit a statement of position within a reasonable time following the filing of the report.

The ISBA Board of Governors voted Oct. 27 to reaffirm its 1999 position that Supreme Court Rule 753 be amended to permit personal appearances by attorneys charged with misconduct. The action came in response to a communication from the Attorney Registration and Disciplinary Commission that it has proposed limiting the right to respond when a matter is referred to the Inquiry Board, as described in ARDC Rule 105. The ARDC favors deleting Rule 105 and expanding Rule 55 to allow written responses, if prior opportunities had not been afforded, and personal appearances only at the discretion of the inquiry panel hearing the case. The ISBA Committee on the ARDC urged the Board of Governors to request amendment of Supreme Court Rule 753 to require a charged attorney to appear at the time the case is scheduled, subject to continuance for good cause. The ISBA on Aug. 31,1999, filed a proposed Rule 753 amendment that the Inquiry Board provide a charged attorney zn opportunity to personally appear before it on a specified date and make an oral statement and answer questions. . ."

Two other rule changes proposed by the ARDC were supported by the Board of Governors and the Committee on the ARDC.

Rule 260 would be altered to conform to thepractice of conducting pre-hearing conferences by telephone or in person at the discretion of the chair,and that listed topics would be covered when appropriate during any series of pre-hearing confer- ences.

A new Rule 261 would be added to provide guidance on when a party may move to substitute a hearing panel mem- ber, either for cause or when a judge is involved in a case. Substitutions as of right would not be allowed.

The ARDC will discuss the proposals during its Dec. 8 meeting. Responses may be submitted by Nov. 22 to commission chair Jay Janssen in the Chicago office. Copies of the proposals and summaries may be obtained from the ARDC administrator by calling (312) 565-2600.

(Source: ISBA News, Vol. 41, No. 8, 11-15-00)

Atty. Reg. & Disc. Comm'n, R 260 (2000)

Rule 260. Prehearing Conferences

(a) Initial Prehearing Conference. A prehearing conference shall be held at the offices of the Attorney Registration and Disciplinary Commission in every case filed before the Hearing Board. As soon as practicable after the filing of the complaint or petition, a member of the Hearing Board who has been designated Chair in the case shall schedule and preside over the prehearing conference. The respondent or petitioner, counsel for respondent or petitioner if any, and counsel for the Administrator shall personally attend the prehearing conference. Upon a showing of good cause, the Chair may excuse the respondent or petitioner from attending the prehearing conference.

(b) Objectives. The Chair is responsible for bringing the case to a full andfair hearing in a timely and efficient manner. In furtherance of this responsibility, the Chair shall conduct prehearing conferences to consider and take action regarding: fair hearing in a timely and efficient manner. In furtherance of this responsibility, the Chair shall conduct prehearing conferences to consider and take action regarding: (1) the formulation and simplification of the issues; (2) the elimination of frivolous charges or defenses; (3) the necessity of amendments to the pleadings; (4) entry into stipulations regarding undisputed evidence and obtaining prehearing rulings on the admissibility of evidence; (5) the identification and limitation of witnesses, including character or expert witnesses;

(6) the possibility of discipline on consent pursuant to Supreme Court Rule 762; (7) the supervision of discovery, including the stablishment of a date by which all discovery must be concluded; (8) the scheduling of the hearing; and (9) any other matters which may aid in the disposition of the action.

(c) Additional Prehearings. The Chair may hold as many additional prehearing conferences as deemed necessary to meet the objectives set forth above.

(d) Order. The Chair shall enter an order reciting any action taken by the Chair and reciting any agreements made by the Administrator and the respondent or petitioner and approved by the Chair.

(e) Status Conferences. In addition to formal prehearing conferences, the Chair may, within his sound discretion, schedule status conferences to be held in person or by telephone.

(f) Sanctions. The Chair shall, in addition to any other sanctions authorized by Supreme Court Rule or Commission Rule, make and enforce all rules and orders necessary to compel compliance with this rule.

M.R. 16530

BEFORE THE SUPREME COURT OF ILLINOIS

In re the Matter of:)
KENNETH ALAN KOZEL,) Commission No. 96CH50
Respondent-Appellant,) Filed: July 11, 2000
No. 1519727)

MOTION FOR RECONSIDERATION OF ORDER

Now comes the respondent by counsel and for his Motion for Reconsideration of Order, states as follows:

On June 30, 2000, this court entered an order allowing the petitions for leave to file exceptions of both parties, the Administrator and the respondent, and disbarred the respondent. This court's order was not accompanied by an opinion and did not provide any reasons for the disbarment. See Appendix, page 9.

The Review Board had previously recommended a suspension and had filed a unanimous 20-page supporting opinion with reasons supporting the suspension. See Appendix, pages 10-30. The Illinois Supreme Court did not provide any reasons as to why the decision of the Review Board should not be accepted, or why the respondent should be disbarred.

A respondent in an attorney discipline case has the right to seek further review in the United States Supreme Court of an order entered by the Illinois Supreme Court. See Appendix, page 31. The punishment of disbarment of an attorney means, for all practical purposes, the destruction of his professional life. In Re Harris, 93 Ill.2d 285, 1982; In Re Donaghy, 402 Ill. 120 2d (1948).

In the Federal Courts, Federal Rule of Civil Procedure 52 and Bankruptcy Rule 7052 mandate that it is a court's duty to make findings of fact and

conclusions of law. See Appendix, pages 76-77. The purpose is to provide a court of review and the litigants with a clear understanding of the underlying judgment, and to avoid prejudice to the litigants. A court of review is entitled to a clear basis for the decision of the underlying court. Brown v. Quinlan, Inc., 138 F2d 228 (7th Cir. 1943); Feeley v.U.S., 337 F2d 924 (3d Cir. 1964); Leighton v. One William Street Fund, Inc., 343 F2d 565 (2d Cir. 1965); In Re Metropolitan Realty Corp., 433 F. 2d 676 (5th Cir. 1970), cert. Denied 401 US 1008.

Correspondingly, since this court's order of June 30, 2000, is reviewable by the U.S. Supreme Court, this court has a duty to issue an opinion and provide reasons for the disbarment of the respondent. This court has an obligation to provide reasons so that the U.S. Supreme Court will have a clear understanding of its order, especially here where this court it has granted both parties leave to file exceptions and overturned the 20-page opinion of the Review Board.

The perfunctory order of disbarment entered by this court has denied the respondent due process of law under the 14th Amendment of the United States Constitution because this court has failed to issue an opinion, failed to provide any reasons for disbarment, failed to provide any reasons why the unanimous opinion of the Review Board should not be accepted, and denied the respondent review before the U.S. Supreme Court. See Appendix, page 32.

The Illinois Supreme Court has issued a great number of opinions in disbarment cases through the years in which the court has provided reasons for the disbarment of an attorney. See Appendix, pages 33-37. The Illinois Supreme Court has denied the respondent

the equal protection of the law under the 14th Amendment of the United States Constitution by issuing an opinion in all these other disbarment cases and providing reasons for disbarment, but not issuing an opinion in this case and not providing any reasons for the disbarment of the respondent. See Appendix, 32.

Supreme Court Rule 753(e)(5)(i) provides that the Illinois Supreme Court can enter a final order as recommended by the Review Board or as otherwise determined by the court. See Appendix, page 38-42. The words, "as otherwise determined by the court", are unconstitutional as applied in this case in the order of June 30, 2000, because they have denied the respondent an opinion and reasons for disbarment, denied the respondent reasons why the decision of the Review Board has been overturned, and denied the respondent review before the U.S. Supreme Court. By applying Rule 753 in this fashion, this court has denied the respondent due process and the equal protection of the law under the 14th Amendment of the U.S. Constitution. See Apendix, page 32.

Attorney Registration and Disciplinary Commission Rule 311 mandates that the Review Board address the issues raised by the parties. See Appendix, page 43. The Review Board had this case under review for 24 months before issuing its unanimous opinion, 9 months prior to oral argument and 15 months after oral argument. The members of the Review Board addressed the issues and gave this case many, many hours of detailed attention at considerable personal sacrifice. For this court to fail to address the issues and not provide reasons why the decision of the Review

Board should be overturned, shows a lack of due deference for the Review Board.

The respondent requested an extension of time to file his petition for leave to file exceptions. See Appendix, page 44-46. The respondent's request for an extension of time was denied by this court, and the respondent was limited to 21 days to submit his petition for leave to file exceptions. See Appendix, page 47. The Administrator also requested an extension of time to file the Administrator's answer to the respondent's petition for leave to file exceptions. See Appendix, page 48-50. This court allowed the Administrator's request for extension of time over the respondent's objection. See Appendix, pages 51, 74-75. This court denied the respondent due process of law and the equal protection of the law under the 14th Amendment of the U.S. Constitution when it denied the petitioner an extension of time but allowed the Administrator an extension of time.

The respondent filed three motions requesting leave to supplement his petition for leave to file exceptions with relevant matters that had arisen subsequent to the filing of the respondent's petition for leave to file exceptions. See Appendix, pages 52-66. This court denied the respondent due process of law and the equal protection of the law under the 14th Amendment of the U.S. Constitution when it issued three orders that denied the petitioner leave to supplement his petition for leave to file exceptions with the above matters. See Appendix, pages 67-69.

An attorney is the only profession in Illinois that is denied judicial review as a matter of right in a proceeding involving the loss of a professional license. All other professions in Illinois are allowed judicial

review as a matter of right in the Circuit Court and in the Appellate Court. See Appendix, page 70.

The respondent has been denied judicial review as a result of the application of Supreme Court Rules 751 and 753. Judicial review as a matter of right is not provided for attorneys as it is for all other professions in Illinois. Furthermore, the Illinois Supreme Court has denied the respondent judicial review by failing to issue an opinion and provide reasons for disbarment in its order of June 30, 2000. Though its rules, this court has denied the respondent judicial review in a disbarment proceeding, and denied the respondent due process and equal protection of the law under the 14th Amendment of the U.S. Constitution.

The members of the Hearing Board on this case were appointed by the Attorney Registration and Disciplinary Commission and selected by the Administrator pursuant to Supreme Court Rule 753(c)(1). See Appendix, pages 38-42. On the other hand, the members of the Review Board on this case were appointed by the Illinois Supreme Court pursuant to Supreme Court Rule 753(d)(1). See Appendix, pages 38-42.

The members of the Hearing Board are non-judicial officers in that they were not appointed by any court. The net result is that this court has summarily and without explanation adopted the recommendation of non-judicial officers of the Hearing Board that the respondent be disbarred. Supreme Court Rule 753(c)(1), which provides for the appointment of non-judicial officers to the Hearing Board and the adoption of their recommendation for disbarment by this court, is unconstitutional. Furthermore, the respondent was denied judicial review because the members of the

Hearing Board are non-judicial officers. The respondent has been denied judicial review in comparison to all other professions in Illinois. The respondent has been denied due process and equal protection under the 14th Amendment of the U.S. Constitution. See Appendix 32.

There is an issue as to whether the judicial districts of this court are in compliance with the federal requirement of one-man, one-vote. According to the 1990 census, the Third Supreme Court District in which the respondent resides, is 8.5% below equality, the Fourth District is 21.9% below equality and the Fifth District is 19.3% below equality. The Second District has nearly 50% more residents than it would have if all four downstate districts were equal. See Appendix, 71-73. As a result, the respondent has been denied due process and the equal protection of the law under the 14th Amendment of the U.S. Constitution since the districts are not in compliance with the one-man, one-vote requirement.

WHEREFORE, the respondent prays that this court reconsider and vacate the order entered on June 30, 2000, and further order that this case be accepted for further consideration, that each party be allowed to file briefs, that oral argument be allowed and that this case be decided by a full opinion.

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Respectfully submitted,
s/Peter H. Rodenburg
Counsel for the Respondent

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M.R. 16530

BEFORE THE SUPREME COURT OF ILLINOIS

In re the Matter of:)
KENNETH ALAN KOZEL,)Commission No. 96 CH 50
Respondent-Appellant,) Filed: July 20, 2000
No. 1519727)

MOTION FOR LEAVE TO FILE AMENDMENT TO MOTION FOR RECONSIDERATION OF ORDER

Now comes the respondent by counsel and for his Motion for Leave to file Amendment to Motion for Reconsideration of Order, states as follows:

In his Motion for Reconsideration of Order, the respondent previously stated that Supreme Court Rule 753(e)(5)(a)(i), and in particular the phrase, "enter a final order ... as otherwise determined by the court," was unconstitutional, because the above phrase, as applied, along with this court's order of June 30, 2000, denied the respondent an opinion and reasons for disbarment in this case. See Appendix, pages 4 and 6-8).

The respondent suffered an additional constitutional denial as a result of the application of Supreme Court Rule 753(e)(5)(a)(i) and (a)(iii). In any case other than an attorney discipline case, when a petition for leave to appeal is allowed by the Illinois Supreme Court, the petitioner, as a matter of right pursuant to Supreme Court Rule 315(g), is given the option (1) of allowing his petition for leave to appeal to stand as his appellant's brief or (2) of filing a brief in lieu of his petition for leave to appeal or as a supplement, before the court decides the merits of the case and issues an opinion. See Appendix, page 9.

In contrast, when a petition for leave to file exceptions in an attorney discipline case is allowed, as

it was in this case, Supreme Court Rule 753(e)(5)(a)(iii) provides that the attorney's petition for leave to file exceptions "shall stand as the brief of the appellant." See Appendix, pages 4 and 6-8.

Supreme Court Rule 753(e)(5)(a)(i) and (a)(iii) denied the respondent attorney the second option allowed all others (non-attorneys) as a matter of right, of filing a brief in lieu of his petition for leave to file exceptions or as a supplement, before the Illinois Supreme Court entered the order of June 30, 2000. This constituted a denial of due process and the equal protection of the law under the 14th Amendment of the U.S. Constitution. See Appendix, page 5.

The substance of the above additional ground for the Motion for Reconsideration of Order is set forth in the attached Amendment to Motion for Reconsideration of Order, and was not recognized at the time the Motion for Reconsideration of Order was filed because the constitutional deprivation was not readily apparent. In addition, this appears to be a matter of first impression.

The rehearing time period of 21 days pursuant to Supreme Court Rule 367 from the issuance of this court's order on June 30, 2000, has not yet expired.

A copy of the Amendment to Motion for Reconsideration of Order is attached hereto and incorporated herein.

WHEREFORE, the respondent prays that this court allow leave to file the attached Amendment to Motion for Reconsideration of Order, that this court reconsider and vacate the order entered on June 30, 2000, and further order that this case be accepted for further consideration, that each party be allowed to file

briefs, that oral argument be allowed and that this case be decided by a full opinion.

Respectfully submitted,
s/Peter H. Rodenburg
Counsel for Respondent

VERIFICATION BY CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

s/ Peter H. Rodenburg

Peter H. Rodenburg
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505 First Street
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(815) 220-1082

M.R. 16530

BEFORE THE SUPREME COURT OF ILLINOIS

In re the Matter of:)
KENNETH ALAN KOZEL,) Commission No. 96 CH 50
Respondent-Appellant,) Filed: July 20, 2000
No. 1519727)

AMENDMENT TO MOTION FOR RECONSIDERATION OF ORDER

Now comes the respondent by counsel and for his Amendment to Motion for Reconsideration of Order, states as follows:

In his Motion for Reconsideration of Order, the respondent previously stated that Supreme Court Rule 753(e)(5)(a)(i), and in particular the phrase, "enter a final order ... as otherwise determined by the court," was unconstitutional, because the above phrase, as applied, along with this court's order of June 30, 2000, denied the respondent an opinion and reasons for disbarment in this case. See Appendix, pages 4 and 6-8).

The respondent suffered an additional constitutional denial as a result of the application of Supreme Court Rule 753(e)(5)(a)(i) and (a)(iii). In any case other than an attorney discipline case, when a petition for leave to appeal is allowed by the Illinois Supreme Court, the petitioner, as a matter of right pursuant to Supreme Court Rule 315(g), is given the option (1) of allowing his petition for leave to appeal to stand as his appellant's brief or (2) of filing a brief in lieu of his petition for leave to appeal or as a supplement, before the court decides the merits of the case and issues an opinion. See Appendix, page 9.

In contrast, when a petition for leave to file exceptions in an attorney discipline case is allowed, as

it was in this case, Supreme Court Rule 753(e)(5)(a)(iii) provides that the attorney's petition for leave to file exceptions "shall stand as the brief of the appellant." See Appendix, pages 4 and 6-8.

Supreme Court Rule 753(e)(5)(a)(i) and (a)(iii) denied the respondent attorney the second option allowed all others (non-attorneys) as a matter of right, of filing a brief in lieu of his petition for leave to file exceptions or as a supplement, before the Illinois Supreme Court entered the order of June 30, 2000. This constituted a denial of due process and the equal protection of the law under the 14th Amendment of the U.S. Constitution. See Appendix, page 5.

WHEREFORE, the respondent prays that this court reconsider and vacate the order entered on June 30, 2000, and further order that this case be accepted for further consideration, that each party be allowed to file briefs, that oral argument be allowed and that this case be decided by a full opinion.

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Respectfully submitted,
s/Peter H. Rodenburg
Counsel for Respondent

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Excerpts from Kenneth Kozel's Petition for Leave to File Exceptions filed with the Illinois Supreme Court.

1. The statements the respondent is alleged to have made involving the judiciary in violation of Rule 8.2(a), are either statements that are not false, or are statements of opinion that can neither be proved true or false. All of the statements are protected by the First Amendment. The Administrator called the respondent as an adverse witness before the Hearing Board, but did not ask him about any of the alleged statements. The Administrator had the burden of proof by clear and convincing evidence, but did not prove the elements in Rule 8.2(a) of knowledge of falsity or reckless disregard, and that any alleged statement was false, as evidenced by the lack of factual findings of falsity in the report of the Hearing Board. The burden of proof was improperly shifted to the respondent to prove that the statements were true.

2. The Illinois Supreme Court has recognized a First Amendment privilege for an attorney's statements involving the judiciary in Owen v. Carr. The Palmisano case can be distinguished from the respondent's case, because it involved allegations of dishonesty. The respondent did not make any allegations of dishonesty, and was not charged with making any allegations of dishonesty. The Ninth Circuit Court of Appeals has recognized a First Amendment privilege for an attorney's statements about the judiciary, even involving allegations of dishonesty, in Standing Committee on Discipline v. Yagman. The law in regard to the First Amendment protection afforded an attorney's statements about the judiciary is unsettled, as evidenced by the Palmisano

and Yagman cases, the statements of Justice Heiple, and the dissent of Justice Harrison and the specially concurring opinion of Justice Miller in the People v. Bull case. 7

3. The ARDC selectively prosecuted the respondent under Rule 8.2(a) in regard to the alleged statements regarding judges. The statements attributed to the respondent were not publicized in the press. Many other attorneys have used the press to make statements about judges, and have used extremely harsh and offensive language. The ARDC has not filed a complaint against any of these attorneys. There is a constitutional right to be free from selective prosecution on the basis of speech. 12

4. ...

5. Rule 8.2(a) is void for vagueness and overbroad as interpreted. 18

6-9 ...

10. The recommendation of the Review Board for a three-year suspension is excessive, disproportionate and arbitrary, and should be reversed. The respondent received a three-year suspension, the same discipline that was recently given to Roberto Cisneros, Jr., who was convicted of three felony counts of aggravated sexual abuse on a fifteen-year-old girl. In re Cisneros, M.R. 15558 (1999). The respondent's case is distinguishable from all the cases cited by the Review Board. 27

11-18.

19. The Supreme Court revised Supreme Court Rule 753, effective November 1, 1990, and eliminated judicial review as a matter of right by the Supreme Court in attorney disciplinary cases. As a result, the respondent has been unconstitutionally denied judicial

review as a matter of right. An attorney is the only profession in Illinois that is denied judicial review as a matter of right. All other professions in Illinois are allowed judicial review as a matter of right in the Circuit Court and in the Appellate Court. 63

Excerpt from Kenneth Kozel's Answer to the Administrator's Petition for Leave to File Exceptions filed with the Illinois Supreme Court.

19. Waiting until the Hearing Board Report is issued to accuse a respondent in a conclusory fashion of filing frivolous objections and motions, and then enhancing discipline, denies a respondent due process and equal protection of the law. Any alleged frivolous objection or motion filed during prehearing should be dealt with at that time so that a respondent can make a proper response before the Hearing Board.

The Hearing Board waited until it issued its report in this case to accuse the respondent of filing objections and motions without any basis in law or fact during prehearing proceedings, not cooperating and being an obstructionist. The Hearing Board then considered its findings in aggravation against the respondent. The Review Board also failed to point to anything specific, and improperly concluded that the Hearing Board was correct.

Any objection deemed to be unfounded or technical during prehearing proceedings in an attorney discipline case, should be dealt with at that time so that a respondent can make a proper response. Waiting until the hearing board report is issued to accuse an attorney of filing unfounded objections and motions,

and then enhancing the discipline as a result, is completely unfair. It's too late for a respondent to respond to such accusations after the hearing board report has been issued. Limiting a respondent's response to filing an exception before the Review Board is also inadequate and a denial of due process and equal protection.

An attorney discipline case is no different than an ordinary case. If a party, or a chairman of a hearing panel for that matter, thinks a violation of Supreme Court Rule 137 has occurred during prehearing proceedings, a respondent should be given a fair opportunity to respond at that time, not after the fact before the Review Board. If the Chairman still believes a violation of Rule 137 has occurred after the respondent has been given a fair opportunity to respond, then a separate sanction (monetary or otherwise), should be imposed at that time before the hearing board report is issued, rather than enhancing the discipline later in the hearing board report without notice to the respondent. This will guarantee a respondent due process and equal protection of the law, and a proper review of any sanction imposed.

In re INGERSOLL, Docket No. 85127, SUPREME COURT OF ILLINOIS, 186 Ill. 2d 163; 710 N.E.2d 390; 1999 Ill. LEXIS 26; 237 Ill. Dec. 760, March 18, 1999.

In re ROTMAN, No. 68433, Supreme Court of Illinois, 136 Ill. 2d 401; 556 N.E.2d 243; 1990 Ill. LEXIS 70; 144 Ill. Dec. 776, May 30, 1990.

In re LEWIS, No. 69542, Supreme Court of Illinois, 138 Ill. 2d 310; 562N.E.2d 198; 1990 Ill. LEXIS 111; 149 Ill. Dec. 734, October 4, 1990.

In re BELL, No. 71175, Supreme Court of Illinois, 147 Ill. 2d 15; 588 N.E.2d 1093; 1992 Ill. LEXIS 7; 167 Ill. Dec. 963, January 23, 1992, Rehearing Denied March 30, 1992.

In re VAVRIK, No. 63902, Supreme Court of Illinois, 117 Ill. 2d 408; 512 N.E.2d 1226; 1987 Ill. LEXIS 213; 111 Ill. Dec. 589, Rehearing Denied October 5, 1987.

In re BRANER, No. 63283, Supreme Court of Illinois, 115 Ill. 2d 384; 504 N.E.2d 102; 1987 Ill. LEXIS 152; 105 Ill. Dec. 233, January 30, 1987.

In re BLANK, No. 71189, Supreme Court of Illinois, 145 Ill. 2d 534; 585 N.E.2d 105; 1991 Ill. LEXIS 119; 165 Ill. Dec. 709, November 27, 1991, Rehearing Denied February 3, 1992.

In re BEHNKE, No. 67037, Supreme Court of Illinois, 127 Ill. 2d 322; 537 N.E.2d 326; 1989 Ill. LEXIS 27; 130 Ill. Dec. 259, March 22, 1989.

In re POWELL, No. 65387, Supreme Court of Illinois, 126 Ill. 2d 15; 533 N.E.2d 831; 1988 Ill. LEXIS 175; 127 Ill. Dec. 749, December 15, 1988, Rehearing Denied January 30, 1989.

In re D'ANGELO, No. 66514, Supreme Court of Illinois, 126 Ill. 2d 45; 533 N.E.2d 861; 1988 Ill. LEXIS 184; 127 Ill. Dec. 779, December 15, 1988, Rehearing Denied January 30, 1989.

In re HELLER, No. 66768, Supreme Court of Illinois, 126 Ill. 2d 94; 533 N.E.2d 824; 1988 Ill. LEXIS 161; 127 Ill. Dec. 742, December 6, 1988, Rehearing Denied January 30, 1989.

In re GREEN, Docket No. 65942, Supreme Court of Illinois, 1988 Ill. LEXIS 142, October 20, 1988.

In re LEVIN, No. 64151, Supreme Court of Illinois, 118 Ill. 2d 77; 514 N.E.2d 174; 1987 Ill. LEXIS 225; 112 Ill. Dec. 708, September 21, 1987

In re JORDAN, No. 60244, Supreme Court of Illinois, 106 Ill. 2d 162; 478 N.E.2d 316; 1985 Ill. LEXIS 211; 88 Ill. Dec. 1, March 22, 1985, Rehearing Denied May 31, 1985.

In re TEICHNER, No. 59268, Supreme Court of Illinois, 104 Ill. 2d 150; 470 N.E.2d 972; 1984 Ill. LEXIS 370; 83 Ill. Dec. 552, September 20, 1984, Rehearing Denied November 30, 1984.

In re WOLDMAN, No. 57376, Supreme Court of Illinois, 98 Ill. 2d 248; 456 N.E.2d 35; 1983 Ill. LEXIS 471; 74 Ill. Dec. 533, October 4, 1983, Rehearing Denied December 2, 1983.

In re SCHNEIDER, No. 57167, Supreme Court of Illinois, 98 Ill. 2d 215; 456 N.E.2d 2; 1983 Ill. LEXIS 468; 74 Ill. Dec. 500, September 23, 1983, Rehearing Denied December 2, 1983.

In re SYED MOHAMMED JAWAID IQBAL JAFREE, No. 56759, Supreme Court of Illinois, 93 Ill. 2d 450; 444 N.E.2d 143; 1982 Ill. LEXIS 399; 67 Ill. Dec.

104, December 17, 1982, Rehearing Denied January 28, 1983.

In re WESTON, No. 55675, Supreme Court of Illinois, 92 Ill. 2d 431; 442 N.E.2d 236; 1982 Ill. LEXIS 348; 65 Ill. Dec. 925, October 22, 1982, Rehearing Denied November 24, 1982.

In re PAPPAS, No. 55382, Supreme Court of Illinois, 92 Ill. 2d 243; 442 N.E.2d 142; 1982 Ill. LEXIS 330; 65 Ill. Dec. 831, September 17, 1982, Rehearing Denied November 24, 1982.

In re FELDMAN, No. 55231, Supreme Court of Illinois, 89 Ill. 2d 7; 431 N.E.2d 388; 1982 Ill. LEXIS 213; 59 Ill. Dec. 103, January 21, 1982.

In re PATT, No. 52973, Supreme Court of Illinois, 81 Ill. 2d 447; 410 N.E.2d 870; 1980 Ill. LEXIS 377; 43 Ill. Dec. 737, September 15, 1980,

In re SMITH, No. 50871, Supreme Court of Illinois, 75 Ill. 2d 134; 387 N.E.2d 316; 1979 Ill. LEXIS 263; 25 Ill. Dec. 660, January 26, 1979, Rehearing Denied March 30, 1979.

In re MITAN, No. 50594, Supreme Court of Illinois, 75 Ill. 2d 118; 387 N.E.2d 278; 1979 Ill. LEXIS 261; 25 Ill. Dec. 622, January 12, 1979, Rehearing Denied March 30, 1979.

In re ROSENTHAL, No. 50098, Supreme Court of Illinois, 73 Ill. 2d 46; 382 N.E.2d 257; 1978 Ill. LEXIS 345; 21 Ill. Dec. 893, October 6, 1978, Rehearing Denied December 1, 1978.

In re STILLO, No. 49023, Supreme Court of Illinois, 68 Ill. 2d 49; 368 N.E.2d 897; 1977 Ill. LEXIS 357; 11 Ill. Dec. 289, October 5, 1977,

In re FREY, No. 48592, Supreme Court of Illinois, 65 Ill. 2d 130; 357 N.E.2d 511; 1976 Ill. LEXIS 414; 2 Ill. Dec. 344, November 15, 1976

In re SMITH, No. 48038, Supreme Court of Illinois, 63 Ill. 2d 250; 347 N.E.2d 133; 1976 Ill. LEXIS 309, March 29, 1976, Rehearing Denied May 27, 1976.

In re HUTUL, No. 43292, Supreme Court of Illinois, 54 Ill. 2d 209; 296 N.E.2d 332; 1973 Ill. LEXIS 328, March 20, 1973, Rehearing Denied June 1, 1973.

In re SNITOFF, No. 43848, Supreme Court of Illinois, 53 Ill. 2d 50; 289 N.E.2d 428; 1972 Ill. LEXIS 260, September 20, 1972, Rehearing Denied November 29, 1972.

In re FUMO, No. 43554, Supreme Court of Illinois, 52 Ill. 2d 307; 288 N.E.2d 9; 1972 Ill. LEXIS 345, September 20, 1972

In re SCHWARZ, No. 43796, Supreme Court of Illinois, 51 Ill. 2d 334; 282 N.E.2d 689; 1972 Ill. LEXIS 434, March 21, 1972, Rehearing Denied May 25, 1972.

In re SARELAS, No. 43138, Supreme Court of Illinois, 50 Ill. 2d 87; 277 N.E.2d 313; 1971 Ill. LEXIS 253, November 30, 1971

In re NESSELSON, No. 41144, Supreme Court of Illinois, 43 Ill. 2d 262; 253 N.E.2d 455; 1969 Ill. LEXIS 277, November 26, 1969

In re BROVERMAN, No. 41074, Supreme Court of Illinois, 40 Ill. 2d 302; 239 N.E.2d 816; 1968 Ill. LEXIS 378, May 29, 1968, Rehearing Denied September 24, 1968.

In re THOMPSON, No. 37600, Supreme Court of Illinois, 30 Ill. 2d 560; 198 N.E.2d 337; 1963 Ill. LEXIS 369, November 26, 1963, Rehearing Denied May 19, 1964.

In re LINGLE, No. 37358, Supreme Court of Illinois, 27 Ill. 2d 459; 189 N.E.2d 342; 1963 Ill. LEXIS 666, March 27, 1963

In re STOWE, No. 37249, Supreme Court of Illinois, 27 Ill. 2d 47; 188 N.E.2d 32; 1963 Ill. LEXIS 588, February 1, 1963

In re AHERN, No. 37054, Supreme Court of Illinois, 26 Ill. 2d 104; 185 N.E.2d 869; 1962 Ill. LEXIS 352, September 28, 1962, Rehearing Denied November 29, 1962.

In re BURNS, No. 36667, Supreme Court of Illinois, 25 Ill. 2d 56; 182 N.E.2d 740; 1962 Ill. LEXIS 440, May 25, 1962

In re EATON, No. 34436, Supreme Court of Illinois, 14 Ill. 2d 338; 152 N.E.2d 850; 1958 Ill. LEXIS 342, September 18, 1958

In re ASHBACH, No. 34442, Supreme Court of Illinois, 13 Ill. 2d 411; 150 N.E.2d 119; 1958 Ill. LEXIS 280, March 20, 1958

In re CLARK, No. 33603, Supreme Court of Illinois, 8 Ill. 2d 314; 134 N.E.2d 281; 1956 Ill. LEXIS 260, March 22, 1956, Rehearing Denied May 22, 1956.

In re THOMSON, No. 32947, Supreme Court of Illinois, 3 Ill. 2d 308; 121 N.E.2d 490; 1954 Ill. LEXIS 413, May 24, 1954, Rehearing Denied September 20, 1954.

In re Rosenberg, No. 32288, Supreme Court of Illinois, 413 Ill. 567; 110 N.E.2d 186; 1953 Ill. LEXIS 234, January 22, 1953

In re Yablunky, No. 31256, Supreme Court of Illinois, 407 Ill. 111; 94 N.E.2d 841; 1950 Ill. LEXIS 422, September 21, 1950, Rehearing Denied November 17, 1950.

In re Koptik, No. 31309, Supreme Court of Illinois, 406 Ill. 141; 92 N.E.2d 462; 1950 Ill. LEXIS 351, May 18, 1950

In re O'Malley, No. 31131, Supreme Court of Illinois, 404 Ill. 257; 88 N.E.2d 881; 1949 Ill. LEXIS 390, November 22, 1949

In re Rieger, No. 30879, Supreme Court of Illinois, 402 Ill. 483; 84 N.E.2d 439; 1949 Ill. LEXIS 261, January 19, 1949, Rehearing Denied March 16, 1949

In re Roth, No. 29793, Supreme Court of Illinois, 398 Ill. 131; 75 N.E.2d 278; 1947 Ill. LEXIS 466, September 18, 1947, Rehearing Denied November 17, 1947.

In re Pontarelli, No. 29271, Supreme Court of Illinois, 393 Ill. 310; 66 N.E.2d 83; 1946 Ill. LEXIS 310, March 20, 1946

In re McCallum, No. 27978, Supreme Court of Illinois, 391 Ill. 400; 64 N.E.2d 310; 1945 Ill. LEXIS 376, March 21, 1945, Rehearing Denied May 21, 1945. Additional Opinion Reported at 391 Ill. 400 at 417.

In re NELSON, No. 27277., Supreme Court of Illinois, 385 Ill. 30; 52 N.E.2d 189; 1943 Ill. LEXIS 763, November 16, 1943, Rehearing denied January 13, 1944.

In re MELNICK, No. 27034., Supreme Court of Illinois, 383 Ill. 200; 48 N.E.2d 935; 1943 Ill. LEXIS 547, May 20, 1943.

In re HARRIS, No. 26833., Supreme Court of Illinois, 383 Ill. 336; 50 N.E.2d 441; 1943 Ill. LEXIS 566, May 20, 1943, Rehearing denied September 15, 1943.

In re GOODMAN, No. 26164., Supreme Court of Illinois, 377 Ill. 578; 37 N.E.2d 345; 1941 Ill. LEXIS 685, September 15, 1941, Rehearing denied November 18, 1941.

In re CARR, No. 26017., Supreme Court of Illinois, 377 Ill. 140; 36 N.E.2d 243; 1941 Ill. LEXIS 622, June 13, 1941.

In re GOODMAN, No. 26048., Supreme Court of Illinois, 377 Ill. 178; 36 N.E.2d 259; 1941 Ill. LEXIS 628, June 13, 1941, Rehearing denied September 1941.

In re BOTH, No. 25905., Supreme Court of Illinois, 376 Ill. 177; 33 N.E.2d 213; 1941 Ill. LEXIS 715, February 14, 1941, Rehearing denied April 8, 1941.

In re LENOX, No. 24971., Supreme Court of Illinois, 371 Ill. 505; 21 N.E.2d 721; 1939 Ill. LEXIS 638, June 15, 1939.

In re PISZATOWSKI, No. 24794, Supreme Court of Illinois, 370 Ill. 375; 19 N.E.2d 169; 1938 Ill. LEXIS 528, December 15, 1938, Rehearing denied February 15, 1939.

In re PATLAK, No. 22299., Supreme Court of Illinois, 368 Ill. 547; 15 N.E.2d 309; 1938 Ill. LEXIS 697; 116 A.L.R. 627, April 15, 1938, Rehearing denied June 8, 1938.

In re DOSS, No. 23850., Supreme Court of Illinois, 367 Ill. 570; 12 N.E.2d 659; 1937 Ill. LEXIS 537, December 15, 1937, Rehearing denied February 2, 1938.

PEOPLE ex rel. McLean Cty. Bar Assn. v. JISKRA, No. 22423., Supreme Court of Illinois, 366 Ill. 446; 9 N.E.2d 193; 1937 Ill. LEXIS 603, June 11, 1937.

In re KETTLES, No. 23649., Supreme Court of Illinois, 365 Ill. 168; 6 N.E.2d 146; 1936 Ill. LEXIS 573, December 10, 1936, Rehearing denied February 3, 1937.

In re NEEDHAM, No. 23525., Supreme Court of Illinois, 364 Ill. 65; 4 N.E.2d 19; 1936 Ill. LEXIS 603, June 17, 1936, Rehearing denied October 7, 1936.

In re MALMIN, No. 23153., Supreme Court of Illinois, 364 Ill. 164; 4 N.E.2d 111; 1936 Ill. LEXIS 615, June 10, 1936, Rehearing denied October 13, 1936.

PEOPLE ex rel. Chicago Bar Assn. v. TEMPLEMAN, No. 21866., Supreme Court of Illinois, 363 Ill. 152; 1 N.E.2d 850; 1936 Ill. LEXIS 714, April 17, 1936.

In re MACK, No. 22610., Supreme Court of Illinois, 360 Ill. 343; 196 N.E. 197; 1935 Ill. LEXIS 721, April 12, 1935, Rehearing denied June 5, 1935.

In re CASEY, No. 22288., Supreme Court of Illinois, 359 Ill. 496; 195 N.E. 39; 1934 Ill. LEXIS 965, December 17, 1934, Rehearing denied February 21, 1935.

PEOPLE ex rel. Chicago Bar Assn. v. PACE, No. 20355., Supreme Court of Illinois, 354 Ill. 111; 188 N.E. 169; 1933 Ill. LEXIS 803, October 21, 1933, Rehearing denied December 14, 1933.

In re INFORMATION TO DISCIPLINE CERTAIN ATTYS. OF THE SANITARY DIST. OF CHICAGO, No. 20357., Supreme Court of Illinois, 351 Ill. 206; 184 N.E. 332; 1932 Ill. LEXIS 669, December 23, 1932, Rehearing denied February 23, 1933.

PEOPLE ex rel. Chicago Bar Assn. v. HACHTMAN, No. 20554., Supreme Court of Illinois, 350 Ill. 326; 183 N.E. 222; 1932 Ill. LEXIS 922, October 22, 1932, Rehearing denied December 7, 1932.

PEOPLE ex rel. Chicago Bar Assn. v. LADOUCEUR, No. 20138., Supreme Court of

Illinois, 347 Ill. 454; 179 N.E. 890; 1932 Ill. LEXIS 706, February 19, 1932.

PEOPLE ex rel. Chicago Bar Assn. v. GORMAN, No. 20235., Supreme Court of Illinois, 346 Ill. 432; 178 N.E. 880; 1931 Ill. LEXIS 1000, December 17, 1931.

PEOPLE ex rel. Chicago Bar Assn. v. GILMORE, No. 19944., Supreme Court of Illinois, 345 Ill. 28; 177 N.E. 710; 1931 Ill. LEXIS 854, June 18, 1931, Rehearing denied October 7, 1931.

PEOPLE ex rel. Chicago Bar Assn. v. BRIGGS, No. 18585., Supreme Court of Illinois, 330 Ill. 339; 161 N.E. 736; 1928 Ill. LEXIS 930, April 21, 1928, Rehearing denied June 13, 1928.

PEOPLE ex rel. Chicago Bar Assn. v. JACKSON, No. 17257., Supreme Court of Illinois, 322 Ill. 618; 153 N.E. 621; 1926 Ill. LEXIS 1175, October 28, 1926.

PEOPLE ex rel. Chicago Bar Assn. v. OLSON, No. 16548., Supreme Court of Illinois, 322 Ill. 210; 153 N.E. 348; 1926 Ill. LEXIS 1113, June 16, 1926, Rehearing denied October 6, 1926.

Professions in Illinois Entitled to Judicial Review in the Circuit Court and Appellate Court of Illinois as a Matter of Right

Architects 225 ILCS 305/34, Athletic Trainers 225 ILCS 5/29, Audiologists 225 ILCS 50/31, Barbers 225 ILCS 410/4-21, Boxers, Promoters, Referees, Judges, Managers, Trainers and Timekeepers 225 ILCS 105/17, Certified Shorthand Reporters 225 ILCS 415/23.14, Child Care Facility Operators 225 ILCS 10/17, Chiropractors 225 ILCS 60/41, Clinical Psychologists 225 ILCS 15/22, Collection Agents 225 ILCS 425/9.22, Cosmetologists 225 ILCS 410/4-21, Dentists 225 ILCS 25/32, Detection of Deception Examiners 225 ILCS 430/20, Detectives 225 ILCS 446/165, Dieticians 225 ILCS 30/160, Estheticians 225 ILCS 410/4-21, Explosives 225 ILCS 210/5008, Farm Labor Contractors 225 ILCS 505/12, Feeder Swine Dealers 225 ILCS 620/17.15, Fire Equipment Distributors 225 ILCS 215/21, Fresh Fruit & Vegetable Merchants 225 ILCS 625/13.01, Funeral Directors and Embalmers 225 ILCS 41/15-35, Grain Dealers 225 ILCS 630/6, Hazardous Waste Equipment Operators & Laborers 225 ILCS 220/13, Horsemeat Slaughterers 225 ILCS 635/17, Interior Designers 225 ILCS 310/21, Landscape Architects 225 ILCS 315/29, Land Surveyors 225 ILCS 330/41, Livestock Buyers & Processors 225 ILCS 655/12, Livestock Dealers 225 ILCS 645/13, Marriage and Family Therapists 225 ILCS 55/150, Meat and Poultry Inspectors 225 ILCS 650/17, Nail Technicians 225 ILCS 410/4-21, Nurses 225 ILCS 65/44, Nursing Home Administrators 225 ILCS 70-35, Occupational Therapists 225 ILCS 75/19.14, Optometrists 225 ILCS 80/26.14, Pet Shop Operators

225 ILCS 605/15, Pharmacists 225 ILCS 85/35.17, Physicians 225 ILCS 60/41, Physician's Assistants 225 ILCS 95/22.14, Plumbers 225 ILCS 320/28, Podiatrists 225 ILCS 100/39[1], Private Employment Agency Employees 225 ILCS 515/12, Private Sewage Disposal Contractors 225 ILCS 225/21, Professional Engineers 225 ILCS 325/37, Public Accountants 225 ILCS 450/21, Real Estate Brokers and Salespersons 225 ILCS 455/12, Roofers 225 ILCS 335/9.7, Social Workers 225 ILCS 20/33, Solid Waste Site Operators 225 ILCS 230/1012, Speech Language Pathologists 225 ILCS 110/24, Structural Engineers 225 ILCS 340/32, Veterinarians 225 ILCS 115/25.14e, Water Well and Pump Installation Contrators 225 ILCS 345/21, Wrestlers, Promoters, Referees, Judges, Managers, Trainers and Timekeepers 225 ILCS 105/17.

Supreme Court districts violate state constitution
Heiple's district among four with large population disparities

CHICAGO (AP) Despite, constitutional requirements, the Legislature has shown little interest for 30 years in balancing the four Illinois Supreme Court districts outside Cook County, a newspaper reported Thursday.

The issue could come up as soon as this spring, possibly in the form of a state constitutional amendment to realign the districts, House Speaker Lee Daniels said Thursday.

Daniels, R-Elmhurst, said populations in those four districts are out of balance. "We need to do something about it. But, you know, we don't want to rush in to this. We want to very carefully weigh (the) approach to it."

While the Illinois Constitution requires the four districts; to have "substantially equal" populations, there's, been a growing disparity since the requirement was established in 1964, the Chicago Sun-Times found.

However, even if the Justices from the four districts were improperly elected because of the population imbalance, legal experts said it's not likely any of the court's rulings are in jeopardy. "Courts are very reluctant to retroactively overturn cases for those reasons," said Jeffrey M. Shaman, a professor of law and constitutional scholar at DePaul University.

Three justices are elected from the 1st District, which covers Cook County, and one each from the other four. The 1st District is not required by the

constitution to have its boundaries redrawn as the population shifts.

The Peoria area is divided between the 3rd and 4th Supreme Court districts, respectively represented by Justices James D. Heiple of Pekin and Benjamin K. Miller of Springfield. Both are Republicans.

According to 1990 census figures, the 3rd District had 1.4 million inhabitants and the 4th District had 1.2 million. The Sun-Times analysis indicates the 3rd District is 8.5 percent below equality. The 4th District, which includes Springfield and Champaign, has had a consistently dwindling percentage and in 1990 was 21.9 percent below what it should be if the districts were equal. The 5th District, in the southern parts of the state, is 19.3 percent lower. The 2nd District has nearly 50 percent more residents than it would have if all four downstate districts were equal, the paper reported. The 2nd District covers 13 northern Illinois counties, including Chicago's fast-growing northern and western suburbs.

" There is an obligation on the part of the state to reflect this and redraw the lines," Shaman said.

Under one plan to equalize the population of the downstate districts, suggested last year by the Legislative Research Unit, the counties making them up would be shuffled. For instance, Peoria and Tazewell counties, currently part of the 3rd District, would become part of the 4th District, joining Woodford County. The population of both districts would grow to about 1.6 million.

Lawmakers have been unable to agree on a redistricting plan for several years. But the idea has been revived in the Capital recently because of some court decisions that stung the Legislature. For instance,

the court recently refused to draft rules for appealing the state's abortion notification law for minors. That prompted a federal court to block implementation of the law, which is presumed to be unconstitutional without an appeals process.

Two years ago, the court brought down a storm of criticism upon itself in the "Baby Richard" case. The justices ruled that a 3-year-old child should be taken from his long-time adoptive parents and returned to his biological father, a stranger to the boy. Heiple bore the brunt of the criticism, since he wrote the unanimous opinion and later issued a stinging rebuke of lawmakers and Gov. Jim Edgar for attempting to influence the case through legislation.

Rep. Terry Parke, R-Hoffman Estates, said he believes the population shifts in the state have been so great that the 1st District is over-represented. He has proposed a constitutional amendment that would give Republican-dominated suburbs more of a voice on the court, but he said he is not aware of any effort to bring the court districts into compliance with the "substantially equal" provision of the existing constitution.

Source: Peoria Journal Star, 2-23-96

NO. 16530

BEFORE THE SUPREME COURT OF ILLINOIS

In re the Matter of)
KENNETH ALAN KOZEL) Commission No. 96 CH 50
Respondent-Appellant) Filed: January 11, 2000
No. 1519727)

MOTION TO EXTEND TIME TO FILE PETITION FOR LEAVE TO FILE EXCEPTIONS

Now comes Kenneth Alan Kozel, the respondent appellant, and for his Motion to Extend Time to File Petition for Leave to File Exceptions, states as follows:

1. The respondent-appellant received a copy of the Report and Recommendation of the Review Board in the mail on January 3, 2000. The Review Board recommended a three-year suspension.

2. The Report and Recommendation of the Review Board was filed on December 30, 1999, some 15 months after the oral argument on September 11, 1998.

3. Since it has been so long since the oral argument, it will take much longer than usual to refresh one's recollection of the entire nature of the case, and to put the recommendation and findings of the Review Board in context. An extension of an additional 35 days is not unreasonable, in view of the length of time it took the Review Board to issue its Report and Recommendation

4. The Report and Recommendation of the Review Board states that "this is an unusual case" (p. 2), that "the hearing lasted for seven days" (p. 2), that "there were

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extensive preheating proceedings" (p. 2), that "the record exceeds 5000 pages" (p. 2) and that "this is a serious case" (p. 3).

5. The Review Board acknowledged that the record exceeds 5000 pages. This is not an exageration. It's probably closer to 1 0,000 pages. Because of the sheer size of the record, additional time will be required to review and research the record and the law in regard to the findings of the Review Board.

6. The Review Board acknowledged that this is an unusual case, This case is unusual, and involves many complicated issues such as First Amendment rights, shifting the burden of proof to the respondent to prove his innocence and the intricacies and ramifications of filing a motion for substitution of judge. An extension of an additional 35 days is not unreasonable in view of the complicated nature of the issues involved.

7. The Report and Recommendation of the Review Board acknowledged that an interim suspension has been in place since February 13, 1998 (p. 2).

8. A petition for leave to file exceptions is due on or before February 3, 2000. The respondent is requesting an extension of 35 days to March 9, 2000.

WHEREFORE, the respondent-appellant prays that this court allow the respondent-appellant an additional 35 days to file a petition for leave to file exceptions, to and including March 9, 2000.

s/ Kenenth A. Kozel
Respondent-Appellant

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VERIFICATION BY
CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the

undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

s/ Kenneth A. Kozel
Respondent-Appellant

Kenneth A. Kozel
801 Second Street
LaSalle, IL 61301
(815) 223-4400

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No. 16530

IN THE SUPREME COURT OF ILLINOIS

In the Matter of)
Kenneth Alan Kozel) Commission No. 96CH50
No. 1519727) Filed: February 14, 2000

MOTION FOR EXTENSION OF TIME TO FILE ANSWER TO PETITION FOR LEAVE TO FILE EXCEPTIONS

Mary Robinson, Administrator of the Attomey Registration and Disciplinary Commission, by her attorney, Steven R. Splitt, respectfully moves this Court to extend the time for filing her Answer to the Respondent's Pefition for Leave to File Exceptions to the Report and Recommendation of the Review Board from February 17, 2000 to and including March 23, 2000. The affidavit of Steven R. Splitt is attached in support of this motion.

Respectfully submitted,
Mary- Robinson, Administrator
Attorney Registration and
Disciplinary Commission
By: s/Steven R. Splitt
Counsel for Administrator
One Prudential Plaza
130 East Randolph Drivie #1500
Chicago, Illinois 60601
Telephone: (312) 565-2600

STATE OF ILLINOIS)
County of Cook) ss.

AFFIDAVIT

Steven R. Splitt, being first duly sworn upon oath, deposes and states as follows:

1. On Decetnber 30,1999, the Review Board filed its Report and Recommendation in this case, recommending that Respondent, Kenneth Kozel, be suspended from the practice of law for three years.

2. I filed the Administrator's Petition for Leave to File Exceptions to the Report and Recommendation of the Review Board on February 3, 2000,

3. Respondent also filed a Petition for Leave to File Exceptions to the Report and Recommendation of the Review Board on February 3, 2000,

4. However, I did not receive a copy of the Respondent's petition until late afternoon on February 14, 2000.

5. The Administrator's Answer to Respondent's petition is due to be filed on February 17, 2000.

6. I will be unable to file the Administrator's Answer by the due date, not only because I have not timely received a copy of the petition, but because of the following other obligations:

a. I am responsible for preparing the Administrator's Appellee's Brief in the case of In re Charles Thomson, No. 98 CH 81, due to be filed with the Review Board on February 28, 2000;

b. I am responsible for preparing the Administrator's Petition for Leave to File Exceptions to the Report and Recommendation of the Review Board in the case of In re Maureen Walsh, No. 94 CH 653, due to be filed with this Court on March 8, 2000; and

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c. I am responsible for preparing the Administrator's Answer to the Respondent's Petition for Leave to File Exceptions to the Report and Recommendation of the Review Board in the case of In re John Petrulis, No, M.R. 16556, due to be filed with this Court on March 16, 2000 (if the Administrator's currently pending motion for extension of time is granted).

7. This motion is made, in good faith and not for purposes of delay.

/s Steven R. Splitt

Subscribed and swom to
before me this 14'h day of February, 2000,
/s Cynthia Cerino
Notary Public

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M.R. 16530

BEFORE THE SUPREME COURT OF ILLINOIS

In re the Matter of:)
KENNETH ALAN KOZEL,) Commission No. 96 CH 50
Respondent-Appellant,) Filed: March 17, 2000
No. 1519727)

MOTION FOR LEAVE TO FILE A SECOND SUPPLEMENT TO THE PETITION FOR LEAVE TO FILE EXCEPTIONS AND TO SUPPLEMENT THE RECORD

Now comes the respondent by counsel and moves for leave to file the attached Second Supplement to the Petition for Leave to File Exceptions and to supplement the record, and in support thereof, states as follows:

1. Recent statements by judges and attorneys made subsequent to the filing of the respondent's Petition for Leave to File Exceptions, are set forth in the Second Supplement to the Petition for Leave to File Exceptions that is attached hereto and incorporated herein by reference. These statements further demonstrate that Supreme Court Rule 8.2(a) is unconstitutionally void for vagueness and overbroad as interpreted by the Administrator, and further demonstrate that the Administrator has selectively prosecuted the respondent.

2. Certain statements have been made in television and radio commercials during the present campaign for the Illinois Illinois Supreme Court. A recent television commercial that aired on March 15, 2000, and on other dates, regarding Judge Thomas Fitzgerald, stated as follows:

"Courts under Fitzgerald sent innocent men to death row while killers walk the streets. Illinois becomes the only state to stop executions. The Tribune calls it a chilling spectacle of criminal justice gone terribly wrong. And Fitzgerald wants a promotion to the Supreme Court. We deserve better".

3. The commercial contained a picture of Judge Fitzgerald accompanied by the phrase, "Presiding Judge of a broken system". A videotape of this commercial accompanies this motion and had been marked Exhibit A.

4. In a commercial that recently aired on WGN Radio on March 14, 2000, and on other dates, it was stated that "Judge Bonnie Wheaton is not telling the truth".

5. In a commercial that recently aired on WGN Radio on March 8, 2000, and on other dates, it was stated that "Judge Bob Thomas is running a smear campaign".

6. The respondent has not been able to obtain a copy of a tape or transcript of the above radio commercials on WGN, and, therefore, has provided his affidavit. The respondent requests that this court accept his affidavit or, alternatively, enter an order allowing him to subpoena the tapes or transcripts from WGN.

7. Supreme Court Rule 8.2(a) provides that an attorney shall not make a statement he knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge. However, the Administrator has not filed a complaint against Supreme Court candidate Morton Zwick in regard to the above statements that Judge Thomas

Fitzgerald has sent innocent men to death row and that he is the presiding judge of a broken system.

8. The Administrator has not filed a complaint against Supreme Court candidate Bob Thomas in regard to the above statement that "Judge Bonnie Wheaton is not telling the truth".

9. The Administrator has not filed a complaint against Judge Bonnie Wheaton in regard to the statement that "Judge Bob Thomas is running a smear campaign".

10. The Administrator's position in regard to Rule 8.2(a) insofar as the respondent is concerned, is that each and every statement about a judge made by the respondent in a pleading, such as a motion for substitution of judge, impugns the integrity of the judge and violates the rule. The above statements made by the candidates for the Illinois Supreme Court go well beyond anything the respondent has ever said about a judge in any pleading, and certainly violate Rule 8.2(a). However, the Administrator has not filed a complaint against any of the respective candidates, and has selectively prosecuted the respondent.

11. In a recent letter from Attorney Joseph R. Martan to the editor of the Chicago Daily Law Bulletin, which appeared in the March 7, 2000, edition, a copy of which is attached hereto as Exhibit B, made the following statements about judges:

"Whining state judges".

"The Illinois Judges Association is hardly the most objective professional group".

"Second, too many state judges never had the law school record that would have gotten them hired as an associate at one of the prestige firms".

"How many state judges, serving or now off the bench, were Order of the Coif or Law Review editors?"

"Third, how many state judges have spent any appreciable time in private practice?"

"Fourth, how many state judges put in the 70 to 90-hour weeks expected of associates at the prestige firms in exchange for the exalted salaries? Not many, based on my on my private practice experience".

12. The above statements made by Attorney Martan also go well beyond anything the respondent has ever said about a judge in any pleading, and certainly violate Rule 8.2(a). The Administrator has not filed a complaint against Attorney Martan.

13. The above statements further demonstrate that Supreme Court Rule 8.2(a) is unconstitutionally void for vagueness and overbroad as interpreted by the Administrator. The Administrator has selectively prosecuted the respondent. The respondent requests that this court allow this motion so that he can fully present his case.

14. On February 24, 2000, an order was entered which allowed the Administrator an extension until March 23, 2000 to file an answer to the respondent's petition for leave to file exceptions. The respondent has no objection to a further extension of time being allowed to file an answer, if the above motion is allowed.

Wherefore, the respondent prays that this motion for leave to file Second Supplement to the Petition for Leave to File Exceptions and to supplement the record be allowed.

Peter H. Rodenburg
Attorney ay Law
505 First Street
LaSalle, IL 61301
(815) 223-3051

Respectfully submitted,
s/Peter H. Rodenburg
Counsel for the Respondent

Chicago Daily Law Bulletin
March 7, 2000, Tuesday

To the editor:

Associate salaries at Chicago's premier law firms are now in the $ 125,000 to $140,000 range. The Illinois Judges Association complains that state judges'salaries are now inadequate based on the salary hiking done in the silk stocking firms. Federal jurists also grumble and (rightly) complain that such salary levels mock the experience levels of not just the federal judiciary but many thousands of experienced attorneys as well. Well, it had to happen sometime and it looks like that time is now.

Market forces -- hah! This latest bout of associate salary jumps has nothing to do with market forces. It's prestige, stupid! The Silicon Valley firms supposedly stealing away all of this top flight (yet curiously unproven, at least in the world of real-life practice) legal talent are just as monopolized by the top school" elitists as are the big corporate law firms. This is little more than a smarmy, arrogant game between a very small, yet unfortunately very privileged, segment of the bar and business community. Unfortunately the game has the effect of leaving a very sour taste in the mouths of the remaining 95 percent of the practicing bar. The corporate clients are also grumbling with increasing volume.

Is a newly minted lawyer with negligible or no experience worth this kind of money? No, and that goes even for the Ivy Leaguers at the top of their classes -- they are unproven commodities who have yet to demonstrate they can apply law school theory to the real world. If Silicon Valley is willing to gamble on unknowns, that is its privilege -- but it should not be elevated to a benchmark for associates' salaries, judicial salaries, etc.

There are solutions. The corporate firms don't have to jump lock-step into these prestige contests. Of course, it might require them to look with a more expanded eye for potential associates -- maybe even beyond the 10 or 15 law schools they never want to go beyond. But this might be a most beneficial set of circumstances. There is plenty of good legal talent out there who didn't go to a Top 10 school -- they'll work just as hard (if not harder) for the opportunity and the firms will benefit by adding some very badly needed diversity in their ranks. And they won't have to pay $ 125,000 -- the opportunity alone will see talented attorneys willing to work for far less to start.

As for whatever effect the raises in associates' salary ranges has on the state judiciary, sorry, but this attorney isn't sympathetic. The Illinois Judges Association is hardly the most objective professional group." If state judges are so underpaid, why is there such a scramble by dozens of attorneys when a single associate judge vacancy opens up? Obviously, those brethren seeking the posts don't consider the current salary levels to be inadequate and paltry sums. The argument that judges can't make ends meet if they have to put two children through school doesn't wash. Welcome to the real world. Most

experienced attorneys in private practice do NOT make six-figure incomes.

As for Chief Justice Rehnquist's concerns, the salary complaint rings far truer here, arguably because the federal judiciary is drawn from a far more solid background, both academically as well as in terms of practical experience. However, the problem still boils down to the idiotic prestige contests waged by the premier law firms. May I respectfully suggest to the chief justice that he level some criticism at these firms -- the example they set has nothing to do with merit; it's plain arrogant greed. The American Bar Association might also take up the standard -- instead of worrying about trendy, politically correct issues, how about taking a bite into unrealistic associate compensation and the questionable image this creates of the bar as a whole?

As an attorney of 22 years' experience, I find increasingly offensive the argument state judges advance that their salaries aren't competitive with big law firm partners. Too bad. First, attorneys seeking the black robe are already well-informed as to the salary levels. If it's too low, don't apply. Second, too many state judges never had the law school record that would have gotten them hired as an associate at one of the prestige firms. How many state judges, serving or now off the bench, were Order of the Coif or Law Review editors? If you weren't, don't complain now because the prestige firms wouldn't have hired you. Third, how many state judges have spent any appreciable time in privatepractice? From the backgrounds revealed prior to elections or in the Law Bulletin biographies, most have never been in private practice or else rushed to secure a

governmental position at the first opportunity. Fourth, how many state judges put in the 70- to 90-hour weeks expected of associates at the prestige firms in exchange for the exalted salaries? Not many, based on my private practice experience. If opportunity to serve is too much of a financial sacrifice, then stand aside. There are plenty of experienced, non-political members of the bar who'd look forward to service on the bench and consider themselves quite adequately compensated. Maybe so-called merit selection is an idea whose time has come, if just to silence all those feeding from the public trough who complain the trough isn't big enough.

Egregiously high associate salaries. Whining state judges. Doesn't the bar have more important problems to ponder?

Joseph R. Martan
Western Springs